THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.4292 of 2007

Date: 12.03.2007

Between:

K.Subba Raju and others.

....Petitioners

and

The Joint Sub-Registrar,
Visakhapatnam.

....Respondent

O R D E R:

The petitioners intended to purchase an extent of 15875 sq.yards of land forming part of R.S.Nos.140/4, 140/5, 140/6, 140/9 and 140/12 of Chinagadila Village, Visakhapatnam District from the respective owners. An agreement of sale, dated 14.09.2006, was entered into, indicating the sale consideration as Rs.24 lacs. The agreement of sale was presented before the respondent for registration. Through a notice, dated 27.01.2007, the respondent intimated the petitioners that the agreement would not be accepted for registration on account of the fact that the land covered by the agreement of sale was found to be 'Gayalu' on the basis of the intimation given by him by the concerned Mandal Revenue Officer. The petitioners challenge the action of the respondent.

Sri Challa Kodandaram, the learned counsel for the petitioners submits that the grounds, on which the respondent can refuse registration, must be traceable to the provisions of the Stamp Act and the Registration Act and particularly those elaborated under Rule 161 of the Registration Rules and that the reasons stated by the respondent do not fit into any of them.

The learned Government Pleader for Revenue, on the other hand, submits that when the record clearly discloses that the subject matter of the agreement is a Government land, no exception can be taken to the notice under challenge. He

contends that if the petitioners feel aggrieved by the same, they can avail the remedy under Section 72 of the Registration Act.

The registration of the documents of various categories serves a dual purpose, namely providing evidence for the transaction and as a source of revenue for the State. The registering authority is conferred with the powers mostly to examine procedural aspects. The disputes touching on the title to the property, which is dealt with under the documents, are completely kept outside the realm of registration. If there exist any dispute as to the title, possession etcetera in relation to the property, the parties are required to work out the same in accordance with the relevant provisions of law. Exception to this general proposition is where any statute prohibits the registration of document in relation to a category of property. For example, Section 5 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977, mandates that no transaction of transfer of assigned lands shall be entertained by the registering authority. Therefore, a Registrar would be justified in refusing to register an assigned land, if he has information about it. Except in such category of cases, a registering authority cannot refuse the registration on the grounds, which are traceable to dispute as to the title. To be precise, Rule 161 of the Registration Rules has specified 16 grounds, on the basis of which, the Registrar can refuse registration. None of them permit the adjudication of disputes touching on title.

In the instant case, it is no doubt true that the respondent received information that the land covered by the agreement of sale is part of 'Gayalu' held by the Government absolutely. That fact, by itself, does not enable the respondent to refuse registration. When the petitioners have come forward to purchase

the said land and if the title to the same vests in the Government, they are running the risk. The mere registration of a document in favour of the petitioners does not take away whatever right they possess, since they are not parties to it.

The question of the petitioners being required to avail the remedy of appeal under Section 72 of the Registration Act, would arise, if only the grounds mentioned by the respondent herein are traceable to any provisions of the Stamp Act, Registration Act or any Rules made thereunder. As pointed out earlier, the grounds mentioned by the respondent do not fit into any of the grounds mentioned in Rule 161 of the Registration Rules or the provisions of the said enactment.

Therefore, the writ petition is allowed, the impugned notice is set aside and the respondent is directed to process the document in accordance with law, without any influence by the fact that the property is part of 'Gayalu'. It is, however, made clear that the registration of the document shall not have any impact on the right or claim of the Government over the property. There shall be no order as to costs.

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12.03.2007

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